

Appl. No. : Unknown
Filed : Herewith

REMARKS

In the March 19, 2003 Office Action of the parent application with U.S. Patent Application No. 10/164,646, filed June 6, 2002, the Examiner rejected Claims 1-13 and Claim 19 under 35 U.S.C. § 103(a).

Discussion of Claims 1-3 and 5-14

Claims 1-3, 5-13, and 19 of the parent application correspond to Claims 1-3 and 5-14 of the present continuation application. In the March 19, 2003 Office Action of the parent application, the Examiner rejected Claims 1-3, 5-13, and 19 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application No. 09/797,635 with Publication No. 2002/0123248 A1 to Moore, et al., ("Moore"). Applicants respectfully submit that Moore is not a proper reference to the present application under 35 U.S.C. § 103(a) due to common ownership, and Applicants respectfully traverse the rejections to Claims 1-3, 5-13, and 19 made by the Examiner in connection with the parent application.

As set forth in M.P.E.P. 2136.02, "[f]or applications filed on or after November 29, 1999, if the applicant provides evidence that the application and prior art reference were owned by the same person, or subject to an obligation of assignment to the same person, at the time the invention was made, any rejections under 35 U.S.C. 102(e)/103 based upon such a commonly owned reference should not be made or maintained." See also, M.P.E.P. 706.02(I)(1) citing 35 U.S.C. § 103(c), "Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

The June 6, 2002 filing date of the parent application to the present application precedes the September 5, 2002 publication date of Moore. Therefore, if Moore qualifies as prior art, Moore only qualifies as prior art under 35 U.S.C. 102(e)/103.

As suggested in M.P.E.P. 706(I)(2)(II), Applicants establish common ownership of the present application and Moore under a separate section entitled "Common Ownership" herein.

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Applicants respectfully submit that Moore is not a proper reference to the present application under 35 U.S.C. § 103(a). Accordingly, Applicants request the Examiner to allow Claims 1-3 and 5-14.

Discussion of Claim 4

In the March 19, 2003 Office Action of the parent application, the Examiner rejected Claim 4 under 35 U.S.C. § 103(a) as being obvious over Moore in view of U.S. Patent No. 4,115,872 to Bluhm ("Bluhm"). Applicants respectfully submit that Moore is not a proper reference to the present application under 35 U.S.C. § 103(a) due to common ownership, and Applicants respectfully traverse the rejections to Claim 4 made by the Examiner in connection with the parent application.

In rejecting Claim 4 in the parent application, the Examiner states that "Moore et al. disclose the claimed invention except for the prepared substrate comprises a top insulating layer with vias therein. The Examiner further states that "Bluhm teaches that it is known to have the prepared substrate comprises a top insulating layer 25 with vias therein as set forth in figure 2."

As discussed earlier in connection with Claims 1-3 and 5-14 and as discussed in a separate section entitled "Common Ownership," Applicants respectfully submit that Moore is not a proper reference under 35 U.S.C. § 103(a). Moreover, as acknowledged by the Examiner, Bluhm by itself does not teach or suggest the invention as defined in Claim 4.

Accordingly, Applicants request the Examiner to allow Claim 4.

Discussion of Claim 15

Claim 15 depends from and further defines Claim 14. In view of the patentability of Claim 15, Applicants respectfully request allowance of Claim 15.

Common Ownership

Applicants hereby establish common ownership with the following statement as set forth in M.P.E.P. 706.02(I)(2)(II):

The present patent application and the Moore patent application with U.S. Patent Application No. 09/797,635 and Publication No. 2002/0123248 A1 were, at the

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time of invention of the present application was made, owned by Micron Technology, Inc.

As set forth in M.P.E.P. 706.02(I)(2)(II), “[t]his statement alone is sufficient evidence to disqualify Patent A from being used in a rejection under 35 U.S.C. 103(a) against the claims of Application X.”

In addition, Applicants are also submitting a copy of the assignment and the notice of recordation of assignment document from the cited Moore patent application as objective evidence of common ownership.

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SUMMARY

In view of the foregoing remarks, Applicants believe that Claims 1-15 are in condition for allowance, and Applicants further request the Examiner to pass the present application to the issue process.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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